

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ELIAS ABILHEIRA, ESQ. - 032211994
ABILHEIRA & ASSOCIATES, P.C.
42 East Main Street, Suite 301
Freehold, New Jersey 07728
Attorneys for Defendants
Tony M. Braxton, Louie Livingston
and Right One Auto BHPH, LLC
732-866-1883
FILE NO.: IAD-0195-DJ

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LAYAKIM SMALL,

CIVIL ACTION NO.:

-Plaintiff,

vs.

NOTICE OF REMOVAL

TONY N. BRAXTON, LOUIE LIVINGSTON,
JR., RIGHT ONE AUTO BHPH, LLC, ABC
CORPS 1-10 (said name being
fictitious and unknown) and JOHN
DOES 1-10 (said names being
fictitious and unknown),

-Defendants.

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TO: Scott G. Leonard, Esq.
Leonard Legal Group, LLC
165 Washington Street
Morristown, New Jersey 07960
Attorney for Plaintiff, Layakim Small

Court Clerk
Superior Court, Essex County
50 West Market Street
Newark, New Jersey 07102

PLEASE TAKE NOTICE that on this date, Defendants Tony M. Braxton, Louie Livingston and Right One Auto BHPH, LLC, by its undersigned counsel, has filed this Notice of Removal pursuant to 28 U.S.C. Section 1446(a), in the office of the Clerk of the United States District Court for the District of New Jersey.

Defendants, Tony M. Braxton, Louie Livingston and Right One Auto BHPH, LLC, by its undersigned attorney, show:

1. Plaintiff, LAYAKIM SMALL, brought an action against the defendants in the Superior Court of the State of New Jersey, Law Division, Essex County, by filing a Complaint on or about October 28, 2021. A true copy of the Complaint is annexed as **Exhibit "A"**.

2. First Notice of the Complaint was received by defendants on or after April 23, 2022. No Summons has been docketed by plaintiff.

3. Defendants served and filed an Answer on May 2, 2022. A true copy of the Answer is annexed hereto as **Exhibit "B"**.

4. Plaintiff is a resident and citizen of the State of New Jersey, residing at 16 Chelsea Avenue, Apt. 2, in the City of Newark, County of Essex, and State of New Jersey.

5. Defendant, Tony M. Braxton, is a resident and citizen of the State of Maryland, residing at 3207 Kings Point Road, in the Township of Randallstown, County of Baltimore, and State of Maryland.

6. Defendant, Right One Auto BHPH, LLC, is a Limited Liability Company formed in the State of Maryland, located at 3207 Kings Point Road, in the Township Randallstown, County of Baltimore, State of Maryland. This is also its principal place of business.

7. Defendant Louie Livingston is a resident and citizen of the State of Maryland, residing at 3823 Bowers Avenue, in the Township of Gwynn Oaks, County of Baltimore, State of Maryland.

8. There are no other defendants, as to these causes of action, which can be ascertained at this time who are believed to reside in New Jersey.

9. The plaintiff is alleging an injury, herniated lumbar disc and liens, that creates an amount in controversy in excess of \$75,000 exclusive of interest and costs.

10. Jurisdiction over the subject matter of this action is conferred on the Court by 28 U.S.C. Section 1446(b) and 1441(a).

11. Jurisdiction in this Court is proper pursuant to 28 U.S.C. Section 1332, in that the parties to these causes of action are of complete diversity, the amount in controversy exceeds \$75,000 exclusive of interest and costs, and no defendant is citizen of the State of New Jersey.

12. This Notice is filed with this Court within thirty (30) days of defendant's receipt "through service or otherwise, of a copy of the initial pleading ... or other paper from which it may first be ascertained that the case is one which is or has become removable", as provided by 28 U.S.C. Section 1446(b)(3). On or after August 4, 2022, we received plaintiff's initial discovery responses which included a demand of \$1,500,000.00 exclusive of interest and attorneys fees and allegations of damages including an L4-5 decompressive microdysectomy allegedly related to the accident said document being defendants' first notice of the exposure herein in excess of \$75,000.00 exclusive of interest and costs and that the case was removable. See **Exhibit "C"**.

PLEASE TAKE FURTHER NOTICE that defendant, upon filing the Notice of Removal in the Office of the Clerk of the United States District Court for the District of New Jersey, has also filed copies of the

Notice with the Clerk of the Superior Court of New Jersey, Law Division, Essex County, 50 West Market Street, Newark, New Jersey, 07102, to effect removal of this action to the U.S. District Court pursuant to 28 U.S.C. Section 1446(d).

Dated: August 30, 2022

ABILHEIRA & ASSOCIATES, P.C.
Attorney for Defendants, Tony M.
Braxton, Louie Livingston and Right
One Auto BHPH, LLC

By: /s/ Elias Abilheira
ELIAS ABILHEIRA, ESQ.